

THE CONTINUED NEED TO REVISE MISSOURI'S WATER QUALITY STANDARDS FOR THE PROTECTION OF UNCLASSIFIED WATERS AND WETLANDS

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I. INTRODUCTION

The Clean Water Act requires water quality standards to include designated uses and water quality criteria for all waters of the United States.¹ Despite this legal mandate, Missouri's water quality standards contain neither designated uses nor specific water quality criteria for any of the state's wetlands or for any of the approximately 84,000 miles of streams (more than 75 percent of the state's total stream miles) that remain "unclassified."

The Missouri Coalition for the Environment ("MCE") requests that the United States Environmental Protection Agency ("EPA") take action in order to ensure that the Missouri water quality standards regarding "unclassified waters" and wetlands comply with the Clean Water Act. MCE requests that EPA find these provisions of Missouri's standards inconsistent with the Clean Water Act in conjunction with its current review of the state's standards and take action to promulgate replacement standards should the state fail to act.

II. BACKGROUND

A. The Status of Missouri's Water Quality Standards

The State of Missouri² has just completed³ the first triennial review of its water quality standards since 1996. That review was prompted by the EPA's letter of September 8, 2000, which responded to new and revised water quality standards submitted to EPA by Missouri on April 14, 1994 and December 9, 1996. The EPA in its September 2000 letter approved some changes to the Missouri water quality standards, disapproved several provisions, and found that other deficient provisions merited revision in the next triennial review.

In late 2003, after Missouri failed to promulgate new or revised water quality standards in response to the EPA's September 2000 letter, MCE filed suit seeking to compel the EPA to do so under the Clean Water Act. *Missouri Coalition for the Environment v. Leavitt*, No. 03-4217-CV-C-NKL (W.D.Mo.) In late 2004, MCE and EPA entered into a settlement, documented in both a Consent Decree and a Settlement Agreement, whereby EPA agreed to revise Missouri's

¹ 33 U.S.C. § 1313(c)(2)(A).

² The Missouri Department of Natural Resources ("MDNR") typically develops new and revised water quality standards and submits them to the Missouri Clean Water Commission for formal approval. For purposes of this memorandum, both entities will be referred to as "Missouri."

³ Missouri has separated out two issues for a future rulemaking: (1) the promulgation of procedures for implementing the state's anti-degradation policy, and (2) the promulgation of water quality criteria for nutrients.

standards by April 30, 2006, unless the State acted first. An extra year was given for EPA to ensure that Missouri had adopted an implementation procedure for its anti-degradation policy.

In response to the settlement, Missouri undertook another review of its water quality standards. The State published draft revised water quality standards in the *Missouri Register* on May 2, 2005.⁴ MCE commented on the draft regulations, and noted their failure to designate beneficial uses and specific water quality criteria for both wetlands and unclassified waters, in violation of the Clean Water Act. Without remedying those defects, the Missouri Clean Water Commission approved the revised water quality standards on September 7, 2005. Following various ministerial steps required by state law, Missouri is expected formally to submit the revised water quality standards to EPA by late 2005 or early 2006. As with the existing standards, these revised water quality standards are inconsistent with the Clean Water Act insofar as they do not designate uses or set specific water quality standards for unclassified waters or wetlands.

B. The Clean Water Act Sets Minimum Requirements for States' Water Quality Standards

The Clean Water Act requires each state to adopt water quality standards for its navigable waters.⁵ At a minimum, such standards must assign beneficial use designations for human recreation and protection of aquatic life, and set specific criteria sufficient to protect such beneficial uses.⁶

These minimum water quality requirements apply to all waters, including wetlands. The Clean Water Act provides protections for all "navigable waters", which are defined as "waters of the United States, including the territorial seas."⁷ EPA, in turn, defines "waters of the United States" to include, among other waters, all "intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, 'wetlands,' sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce," as well as any tributaries of and wetlands adjacent to any such waters.⁸

The federal courts and EPA are in agreement that the definition of "waters of the United States," and thus the scope of the Clean Water Act, is very broad.⁹ "Navigable waters" have been held to include wetlands hydrologically connected to navigable waterways;¹⁰ a slough adjacent to navigable waters;¹¹ ditches, canals, streams and creeks;¹² an eight mile long "ditch"

⁴ *Missouri Register*, Vol. 30, No. 9, at 838 (May 2, 2005).

⁵ 33 U.S.C. § 1313(a).

⁶ 33 U.S.C. § 1313(c); 40 C.F.R. § 131.6.

⁷ 33 U.S.C. § 1362(7).

⁸ 40 C.F.R. § 122.2(c), (e), and (g).

⁹ See, e.g., *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001); *United States v. Riverside Bayview Homes*, 474 U.S. 121, 134-35 (1985); *In the Matter of C.L. Butch Otter and Charles Robnett*, 2001 WL 388944 (EPA April 9, 2001); *Parker v. Scrap Metal Processors, Inc.*, 386 F.3d 993, 1009 (11th Cir. 2004); *United States v. Deaton*, 332 F.3d 698, 711 (4th Cir. 2003); *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3d 526, 533 (9th Cir. 2001); *United States v. Edison*, 108 F.3d 1336, 1342 (11th Cir. 1997).

¹⁰ *Riverside Bayview Homes*, 474 U.S. at 134-35.

¹¹ *C.L. Butch Otter*, 2001 WL 388944.

criteria "should include specific language about community characteristics that (1) must exist in a wetland to meet a particular designated aquatic life/wildlife use, and (2) are quantifiable."⁴²

Although the State's revised standards set forth procedures and guidelines for the potential development of site-specific numeric standards for wetlands, it should be noted that in the absence of designated uses, it is not at all clear how criteria could be developed, as criteria are designed to be "based upon such [designated] uses." 33 U.S.C. § 1313(c)(2)(A).

Admittedly, it may be difficult to specify criteria applicable to all wetlands as one category. However, that does not justify Missouri's failure to develop any wetlands-specific criteria whatsoever. Missouri's standards fail to even attempt to specify wetlands criteria based on a categorization of wetlands. While reliance solely on site-specific criteria is theoretically acceptable, Missouri has neither developed such site-specific criteria nor established a feasible process for establishing them.

The revised standards contain no requirement that site-specific criteria be established prior to the making of decisions that could substantially harm wetlands. As a practical matter, site-specific criteria would only be formulated in response to a proposed action, such as a proposed discharge permit or a proposed project requiring water quality certification under section 401. The revised standards provide nothing more than an illusion of a process to create site-specific criteria; they do nothing to establish the numeric criteria required by the Clean Water Act.

Missouri's approach suffers from several fatal flaws. First, many if not most of the state's decisions that require reference to water quality standards for wetlands arise in the context of applications for water quality certifications under section 401 of the Clean Water Act. State law imposes a 60-day deadline for deciding whether to grant or deny such certifications.⁴³ To promulgate the site-specific criteria for a wetland the state must make the appropriate scientific and policy analyses, develop the criteria, propose such criteria for public comment, receive and consider public comment, possibly hold public hearings, publish final criteria, and submit to EPA for review and approval.⁴⁴ Even if the certification decision deadline is extended to 180 days – the absolute maximum allowed under the statute – it is still impossible for Missouri to promulgate the appropriate site-specific criteria prior to the deadline.

Second, Missouri's site-specific approach throws what should be a science-based determination into the midst of often-controversial, and sometimes political, permitting or certification decision regarding a specific project. This is inconsistent with the Clean Water Act, which requires that water quality criteria reflect the conditions necessary to support the designated uses, and that a proposed project is then evaluated in terms of its potential impact on attaining the stated water quality standards (uses and criteria). Moreover, it creates uncertainty for the regulated community, which cannot reasonably anticipate what may or may not be allowed in terms of a proposed project's impacts.

⁴² *Id.* at 16.

⁴³ R.S.Mo. § 644.51.13.

⁴⁴ See Proposed 10 C.S.R. 20-7.031(4)(A)5.A.-F (as approved by the Missouri Clean Water Commission in September 2005).

for all other classified waters are set forth. Nowhere else in the standards are designated uses for wetlands specified, whether for wetlands generically, for types of wetlands, or for specific wetlands.

By failing to designate beneficial uses for wetlands, Missouri's water quality standards are inconsistent with and fall far short of the basic requirements of the Clean Water Act. The Act clearly requires that states specify designated uses for their waters.³⁷ It is well settled that waters regulated by the Clean Water Act include wetlands.³⁸ And the EPA stated plainly and firmly 15 years ago that states must specify designated uses for wetlands by October 1993.³⁹ For example:

At a minimum, EPA expects States by the end of FY 1993 to designate uses for all wetlands, and to meet the same minimum requirements of the WQS regulation (40 CFR 131.10) that are applied to other waters. Uses for wetlands must meet the goals of Section 101(a)(2) of the CWA by providing for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water, unless the results of a use attainability analysis (UAA) show that the CWA Section 101(a)(2) goals cannot be achieved...⁴⁰

Designated uses are essentially the starting point for the application of water quality standards. They provide the goals that the general and specific criteria are designed to achieve. Because Missouri's water quality standards offer no designated uses for wetlands, they cannot even begin to ensure their protection.

C. Missouri's Water Quality Standards Lack Wetlands-Specific Water Quality Criteria

Missouri's water quality standards also fail to provide water quality criteria sufficient to protect wetlands. The standards contemplate a site-specific approach to setting wetlands criteria, but only provide a procedure through which site-specific criteria might be formulated. There are no narrative biological criteria and no numeric criteria applicable to wetlands. This falls short of the express requirements of EPA's Wetlands Guidance:

At a minimum, EPA expects States to apply aesthetic narrative criteria ("the free froms") and appropriate numeric criteria to wetlands and to adopt narrative biological criteria for wetlands by the end of FY 1993.⁴¹

Although the State's general narrative criteria apply to all waters, including wetlands, EPA requires that States also adopt narrative biological criteria tailored to wetlands. Such

³⁷ 33 U.S.C. § 1313(c)(2)(A).

³⁸ 40 C.F.R. § 122.2 (c) and (g); *U.S. v. Riverside Bayview Homes, Inc.*, 474 U.S. 121 (1985).

³⁹ EPA Office of Water, Agency Operating Guidance, FY 1991 (1990); EPA Office of Wetlands Protection, National Guidance: Water Quality Standards for Wetlands (July 1990).

⁴⁰ EPA Wetlands Guidance at 7.

⁴¹ EPA Wetlands Guidance at 15.

B. Significant Water Resources in Missouri Lack Adequate Protections as a Result of Missouri's Failure to Have Meaningful Standards for Unclassified Waters

Missouri's unclassified waters constitute a significant group of quality streams: out of more than an estimated 110,000 miles of streams in the State, over 84,000 stream miles (i.e., more than 76%) are unclassified.³⁰ Some, if not most, of the unclassified streams in Missouri have significant flow and depth, and host a variety of aquatic life.³¹ The attached photographs represent a sample of the unclassified portions of waters listed in Table H of 10 CSR § 20-7.031, from St. Louis City, St. Louis County, St. Charles County and Franklin County. All photographs were taken during the summer of 2005, before DNR released a drought advisory on July 13, 2005. Even during a very dry summer, the unclassified waters seen in these photographs are significant.³² Furthermore, approximately 82% of the water pollution discharge permits issued by DNR authorize pollution discharges to unclassified waters. Many of Missouri's unclassified streams provide significant recreational value to Missouri residents, as well as tourists from other states.³³

IV. WETLANDS

A. Missouri's Approach to Wetlands

The State's water quality standards implicitly treat wetlands the same as unclassified waters: there are no designated uses assigned to wetlands, and there are no specific water quality criteria. Only the narrative, general water quality criteria apply to wetlands (and unclassified waters). While Missouri's standards nominally classify wetlands (as class "W")³⁴ the standards do not specify any designated use(s) for wetlands.

In its 2005 triennial review, triggered by the MCE lawsuit and settlement, Missouri further revised its water quality standards relating to wetlands, but failed to set either designated uses or specific water quality criteria. Rather, the 2005 revisions simply outline a procedure and goals for the setting of specific water quality criteria for wetlands.³⁵

B. Missouri's Water Quality Standards Fail to Designate Any Beneficial Uses for Wetlands

Missouri regulations specify designated uses for all classified waters except wetlands.³⁶ As noted above, wetlands are nominally classified ("Class W"), but the classification is hollow as wetlands are not included in designated use tables (Tables G and H) where the designated uses

³⁰ See DNR's Comments Regarding the Advanced Notice of Proposed Rulemaking, published Jan. 15, 2003 at p.1, attached hereto as Exhibit A. (All Exhibits are provided in electronic format on the enclosed CD).

³¹ See photographs of some of Missouri's unclassified streams, attached hereto as Exhibit B.

³² Exh. C (Missouri Department of Conservation letter to DNR, April 23, 2002 at p.2.)

³³ Exh. C at pp.1,3.

³⁴ 10 C.S.R. 20-7.031(1)(F)(7).

³⁵ Proposed 10 C.S.R. 20-7.031(4)(A)5.A.-F.

³⁶ 10 C.S.R. 20-7.031(1)(F) and Tables G and H.

Missouri, not just the so-called classified waters, must be protected to at least the fishable/swimmable standard required by the Act:

Section 101(a)(2) of the CWA establishes the national goal as "water quality which provides for the protection and propagation [sic] of fish, shellfish, and wildlife...and recreation in and on the water wherever attainable (i.e. fishable/swimmable). Furthermore, EPA's regulation at 40 C.F.R. Part 131 interprets and implements these provisions by requiring that water quality standards provide for a default use designation of "fishable/swimmable" unless those uses have been shown through a use attainability analysis to be unattainable. In conclusion, any water is presumed to have a default use designation of "fishable/swimmable" under the rebuttable assumption, and it is the Agency's view that the States must protect unclassified or unlisted waters as well as classified waters for that default use. We note that although unlisted (i.e. unclassified) waters are protected by the general criteria in the Water Quality Standard, there is no clear default use-designation language in Missouri's WQSs for "unclassified waters". This is an issue that EPA will want to discuss during the triennial review.²⁷

Unfortunately, the State neglected to address this gaping hole in its water quality standards during the 2005 triennial review. Thus, the EPA is compelled to make a finding that Missouri's standards are inconsistent with the Clean Water Act, and to promulgate revised water quality standards designating beneficial uses and specific criteria for unclassified waters.

A. Missouri's Water Quality Standards are Inadequate Because They Fail to Provide Minimally-Required Protections for Unclassified Waters

Missouri's water quality standards classify waters of the state into three general categories: Class "L" for lakes, Class "P" for perennial streams, and Class "C" for intermittent streams.²⁸ In theory, the State is to identify the classification of each and every water body in the state. These classifications, as well as the assigned beneficial uses of each identified water body, are listed in Tables G and H of the State's water quality standards. However, the majority of the state's stream miles, and many other waters, are not included in Tables G or H and therefore left "unclassified."

The State provides very few protections for unclassified waters in its water quality standards and thus falls substantially short of meeting minimum requirements of the Clean Water Act. General criteria, applicable to all waters of the State, are the only standards offered unclassified waters.²⁹ Most importantly, unclassified waters in the State are not assigned beneficial uses protecting recreation and aquatic life, nor are they protected by specific water quality criteria sufficient to protect these beneficial uses. As such, the unclassified waters in the State do not receive the minimum protections of fishability and swimmability provided for in the Clean Water Act.

²⁷ EPA's Sept. 2000 Letter, pp. 28-29.

²⁸ 10 C.S.R. § 20-7.031(1)(F). As noted below, there is also a classification "W" for wetlands, but it is of no legal significance because designated uses are not specified for wetlands.

²⁹ 10 C.S.R. § 20-7.031(3) (generally providing that waters of the State must be "free from" a variety of contaminants, but neglecting to assign any default beneficial uses or specific criteria).

D. The CWA Requires States to Review their Water Quality Standards at Least Every Three Years and Submit Them to EPA for Review and Approval

States must review their water quality standards periodically, but not less than once every three years.¹⁹ The results of any such review, including any modifications, must be submitted to EPA for approval.²⁰

Upon a state's periodic submission of its water quality standards to EPA, EPA must review the standards to ensure, at a minimum, that the standards assign designated uses to waters of the state, and the standards protect such designated uses with specific criteria.²¹ EPA has 60 days to approve such standards, and 90 days to disapprove such standards.²² A state then has 90 days to cure or correct any regulations disapproved by the EPA.²³ If the defects are not corrected, then EPA must exercise its authority under the Act to ensure that minimum requirements are being met.

As part of this process, EPA is under a continuing obligation to ensure that the fishable/swimmable goal in section 101 of the Clean Water Act is being met. EPA's water quality standards regulations and guidance documents confirm the importance of the fishable/swimmable requirement and EPA's continuing duty of ensuring that states at least meet this minimum threshold. During each triennial review, states must "reexamine any water body with standards not consistent with the section 101(a)(2) goals."²⁴ States must thereafter submit to EPA "information which will aid the Agency in determining the adequacy of the scientific basis of the standards which do not include the uses specified in section 101(a)(2) of the Act".²⁵ These regulations leave little doubt about EPA's duty to review Missouri's treatment of unclassified waters and wetlands upon the state's submission of the water quality standards.²⁶

III. UNCLASSIFIED WATERS

The EPA's September 2000 letter specifically found the State's water quality standards to be inadequate and inconsistent with the Clean Water Act on the ground, among others, that they fail to specify designated uses for unclassified waters. Specifically, EPA stated that all waters in

¹⁹ 33 U.S.C. § 1313(c)(1); 40 C.F.R. § 131.20(a).

²⁰ 40 C.F.R. § 131.20(c).

²¹ 40 C.F.R. § 131.5(a); 40 C.F.R. § 131.6.

²² 40 C.F.R. § 131.21(a).

²³ 40 C.F.R. § 131.22.

²⁴ WQS Handbook p.6-4.

²⁵ 40 C.F.R. § 131.6(f)(emphasis supplied). See also §§ 131.20(a)(requiring states to reexamine every three years those waters without section 101(a)(2) designated uses), 131.10(j)(requiring use attainability analysis when section 101(a)(2) uses not designated). "For waters where uses have not been designated in support of the fishable/swimmable goal of the CWA, EPA determines whether the alternative uses are based on an acceptable [use attainability analysis] and whether such UAAs have been reviewed every 3 years as required by 40 CFR 131.20(a)." WQS Handbook p. 6-8.

²⁶ EPA should also amend or rescind any other Missouri regulation or policy as necessary to achieve the required level of protection for unclassified waters. For example, Missouri's effluent regulations do not require dechlorination for discharges to certain unclassified streams. 10 C.S.R. § 20-7.015(8)(B)4.B. This differential treatment of such unclassified waters, and any others like it contained in the State's rules, should be removed.

separated by a culvert from a navigable water;¹³ irrigation canals;¹⁴ and anything that would flow during a significant rainfall event.¹⁵

C. The EPA Has Specifically Addressed Water Quality Standards Requirements for Unclassified Waters and Wetlands

Because both unclassified waters and wetlands pose some unique challenges in terms of setting water quality standards, EPA has addressed both through regulatory guidance.

With respect to unclassified waters, EPA has recognized that a state's limited resources may prevent it from identifying, all at once, specific beneficial uses for all of its waters. In such cases, EPA allows the state to leave certain waters "undesigned" or "unclassified," but only upon two conditions. First, the state must apply default recreational and aquatic protections to all waters of the state left unclassified. Second, the state must commit to a schedule to designate all previously unclassified waters of the state, with a goal of eventually leaving no waters undesigned.¹⁶ Missouri has not fulfilled either of these two critical requirements for its unclassified waters.

With respect to wetlands, the EPA has stated plainly that wetlands are to be "afforded the same level of protection as other surface waters with regards to standards."¹⁷ In other guidance, the EPA stated that by October 1993:

States are required, "at a minimum, [to] (1) define wetlands as 'State waters'; (2) designate uses that protect the structure and function of wetlands; (3) adopt aesthetic narrative criteria (the 'free froms') and appropriate numeric criteria in the standards to protect the designated uses; (4) adopt narrative biological criteria in the standards; and (5) extend the antidegradation policy and implementation methods to wetlands."¹⁸

Although Missouri has included wetlands within its definition of state waters, and thereby extended its narrative criteria and anti-degradation policy to wetlands, nearly 12 years after the EPA deadline the state still has not adopted designated uses that protect the structure and function of wetlands, nor adopted appropriate numeric criteria to protect such designated uses.

¹² *Parker*, 386 F.3d at 1009.

¹³ *Deaton*, 332 F.3d at 711.

¹⁴ *Headwaters*, 243 F.3d at 533.

¹⁵ *Edison*, 108 F.3d at 1342.

¹⁶ 62 Fed. Reg. 23003, 23006 (Apr. 28, 1997).

¹⁷ Office of Wetlands Protection, U.S. Environmental Protection Agency, National Guidance: Water Quality Standards for Wetlands (July 1990) ("Wetlands Guidance") at ix.

¹⁸ Office of Water, U.S. Environmental Protection Agency, Agency Operating Guidance, FY 1991 (1990).

Third, because Missouri's regulations do not require site-specific criteria to be set before any wetlands-harming decisions are made, wetlands will remain insufficiently protected for the indefinite future. The dangers of this situation are highlighted by the Missouri Department of Natural Resources' section 401 water quality certification approving the Army Corps of Engineers' plans to destroy large and valuable wetlands in conjunction with the St. Johns/New Madrid Bayou project. In defending the DNR's decision to issue the certification, the Missouri Attorney General's Office argued that the agency's failure to designate beneficial uses on a site-specific basis immunized its decision from challenge even though such uses were not being protected.⁴⁵ This real-world scenario serves to underscore the inadequacy of DNR's proposed approach. Until numeric water quality criteria are established for wetlands, whether set on a site-specific or categorical basis, the Clean Water Act requirements to ensure that discharge activities will not interfere with water quality standards cannot be fulfilled.

D. The EPA Must Disapprove the Revised Missouri Standards for Wetlands and Promulgate Adequate Standards

To ensure compliance and consistency with the Clean Water Act, EPA should disapprove the provision of Missouri's revised water quality standards that pertains to wetlands. If the State fails to submit within 90 days thereafter revised water quality standards that designate beneficial uses and set adequate water quality criteria for wetlands as required by the Clean Water Act, then EPA should immediately promulgate such rules.

Whether promulgated by the State or EPA, such rules should specify designated uses in accordance with EPA's Wetlands Guidance. As a default, the standards should specify the following designated uses for all Missouri wetlands: protection of aquatic life and human health; boating and canoeing; storm- and flood-water storage and attenuation; habitat for resident and migratory wildlife; recreational, cultural, educational, scientific, and natural aesthetic values and uses; and hydrologic cycle maintenance.⁴⁶ Further consideration should also extend to specifying additional designated uses for categories of wetlands as well as individual wetlands (especially wetlands of outstanding value).

V. CONCLUSION

The State of Missouri is poised to submit revised water quality standards that fail to meet the minimum requirements of the Clean Water Act as described above. With respect to the wetlands provisions, which were revised in this triennial review, EPA should within 90 days of the State's submittal disapprove the standards because they fail to designate beneficial uses for wetlands and because they fail to set specific water quality criteria. If the state fails within 90 days to cure those defects, then the EPA should promulgate adequate water quality standards for wetlands in the State of Missouri.

⁴⁵ State's First Motion in Limine, In re: Water Quality Certification for the St. John's Bayou and New Madrid Floodway Project, Missouri Coalition for the Environment and Environmental Defense Fund v. Missouri Dept. of Natural Resources, CWC No. 385-03 at 6, Exhibit D attached hereto.

⁴⁶ See Wetlands Guidance pp. 7-13 and 10 C.S.R. 20-7.031(1)(C).

With respect to unclassified waters, EPA already highlighted to Missouri – five years ago – the fact that the State's standards are inconsistent with the Clean Water Act for failure to designate beneficial uses for unclassified waters. Moreover, EPA suggested that DNR correct that defect in its next triennial review. That review has now concluded, without any attempt to remedy this substantial defect. Missouri's failure to meet the minimal fishable/swimmable goal with regard to unclassified waters requires that EPA determine that such standards are inadequate and promulgate replacement standards for the state. EPA should create a category for otherwise undesignated waters in the State, and assign the default designated uses of primary contact recreation and protection of aquatic life (i.e. fishable/swimmable) to such unclassified waters.

The Clean Water Act requires that a state's water quality standards minimally designate a use for each waterbody, and apply specific water quality criteria to such waters in order to protect assigned beneficial uses. Missouri's water quality standards leave wetlands and unclassified waters without such protections. EPA can and must utilize its authority under the Clean Water Act to rectify this long-standing deficiency in Missouri's water quality standards.